

MAY 15 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ELIZABETH VENANCIO ONOFRE,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-73085

Agency No. A79-542-393

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 12, 2008^{**}

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order adopting and affirming an Immigration Judge's order denying petitioner
Elizabeth Venancio Onofre's oral motions for a continuance, for administrative

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

closure and to reopen the BIA's prior hardship determination in her removal proceedings.

The BIA's denial of motions to reopen and for a continuance are reviewed for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002); *Baires v. INS*, 856 F.2d 89, 91 (9th Cir. 1988). The denial of a motion for administrative closure is reviewed de novo. *See, e.g., Altamirano v. Gonzales*, 427 F.3d 586, 591 (9th Cir. 2005) (questions of law reviewed de novo).

A review of the administrative record, the opposition to the motion for summary disposition and the opening brief demonstrate that the BIA did not abuse its discretion in affirming the Immigration Judge's denial of petitioner's oral request to reopen the BIA's prior hardship determination where the BIA remanded solely for consideration of petitioner's application for voluntary departure. The administrative record, the opposition to the motion for summary disposition and the opening brief also demonstrate that the BIA did not abuse its discretion in affirming the Immigration Judge's denial of petitioner's oral request for a continuance where the attorney representing petitioner at the hearing was fully competent to qualify her for voluntary departure, the only issue before the Immigration Judge at that time.

Finally, the administrative record, the opposition to the motion for summary disposition and the opening brief indicate that the BIA correctly affirmed the Immigration Judge's denial of petitioner's oral request for administrative closure where the government declined to consent to the closure of the case. *See In Re Gutierrez-Lopez*, 21 I. & N. Dec. 479, 480 (BIA 1996) ("A case may not be administratively closed if opposed by either of the parties."). Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.